

AN ACT

Codification
District of
Columbia
Official Code

2001 Edition

2004 Summer
Supp.

West Group
Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Health Services Planning Program Re-Establishment Act of 1996 to provide that staffing of the State Health Planning and Development Agency (“SHPDA”) can continue beyond March 1, 2003, to authorize the funding of SHPDA through fees, to require SHPDA to establish requirements and standards for the provision of uncompensated care to health care facilities receiving a certificate of need, to exempt public, charter, and private schools from the certificate of need procedures for services offered to students with special needs, to require that certificate of need determinations be made within 90 days, extendable under certain circumstances for an additional 30 days, to authorize SHPDA to charges fees for providing to the public documents relating to the application process, to increase the threshold for nonpatient care projects from \$5 million to \$8 million, to establish the State Health Planning and Development Fund as a nonlapsing, revolving fund, and to implement other streamlined certificate of need procedures.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health Services Planning and Development Amendment Act of 2004".

Sec. 2. The Health Services Planning Program Re-Establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-401 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 44-401) is amended as follows:

(1) A new paragraph (2A) is added to read as follows:

“(2A)(A) "Bad debt" means an account receivable based on physician and hospital medical services furnished to any patient for which payment is:

“(i) Expected, but is regarded as uncollectible following reasonable collection efforts; and

“(ii) Not the obligation of any federal, state, or local governmental unit.

“(B) The term “bad debt” does not include charity care.”.

(2) Paragraph (3)(A) is amended by striking the number "\$2,000,000" and inserting the number "\$2,500,000" in its place.

Amend
§ 44-401

(3) A new paragraph (6B) is added to read as follows:

“(6B)(A) “Diagnostic health care facility” means:

“(i) A diagnostic imaging center accredited by the American College of Radiology whose primary business is the provision of diagnostic imaging services to the public;

“(ii) A cardiac catheterization laboratory;

“(iii) A radiation therapy facility; or

“(iv) An independent diagnostic laboratory whose primary business is the provision of diagnostic imaging services to the public and at which at least 3 of the following exams are performed:

“(I) Magnetic resonance imaging;

“(II) CAT scan;

“(III) Nuclear medicine;

“(IV) Ultrasound;

“(V) X-ray; or

“(VI) Mammography.

“(B) The term “diagnostic health care facility” shall not include the offices of private physicians, whether in individual or group practice.”.

(4) A new paragraph (9A) is added to read as follows:

“(9A) “Expedited administrative review” means a review conducted by the SHPDA staff, using the same criteria and standards that apply to projects reviewed through use of the regular process, the results of which are reported to the SHCC at the next regularly scheduled SHCC meeting.”.

(5) Paragraph (10) is amended by striking the phrase “the private office facilities of a health professional,” and inserting the phrase “the private office facilities of a health professional or group of health professionals, where the health professional or group of health professionals provides conventional office services limited to medical consultation, general non-invasive examination, and minor treatment,” in its place.

(6) Paragraph (14)(A) is amended to read as follows:

“(14)(A)(i) “Major medical equipment” means:

“(I) Equipment used for the provision of medical or other health services which is acquired by lease, purchase, donation, or other comparable arrangement by or on behalf of a health care facility, or by or on behalf of any private group practice of diagnostic radiology or radiation therapy, and which has a fair market value in excess of \$1,500,000; or

“(II) A single piece of diagnostic or therapeutic equipment which is acquired by lease, purchase, donation, or other comparable arrangement by or on behalf of a physician or group of physicians (excluding those referenced in subparagraph (I) of this paragraph), or an independent owner or operator of the equipment, and for which the cost or value is in excess of \$250,000.

“(ii) The SHPDA may, by rule, adjust the thresholds specified in sub-subparagraph (I) of this paragraph annually to reflect the change in the Consumer Price index issued by the Bureau of Labor Statistics, United States Department of Labor.

“(iii) The term “major medical equipment” shall not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office or a hospital and meets the requirements of § 1861(s)(10) and (11) of the Social Security Act, approved August 14, 1935 (49 Stat. 420; 42 U.S.C. 1395x(s)).”.

(7) A new paragraph (20) is added to read as follows:

“(20) “Uncompensated care” means the cost of health care services rendered to patients for which the health care facility does not receive payment. The term “uncompensated care” includes bad debt and charity care, but does not include contractual allowances.”.

(b) Section 3 (D.C. Official Code § 44-402) is amended as follows:

Amend
§ 44-402

(1) Subsection (a)(2) is amended to read as follows:

“(2) Revenues, not to exceed fees collected pursuant to section 21, shall be utilized to fund 4 staff positions to administer SHPDA (Project Review Division - Certificate of Need Division Chief; 2 Public Health Analysts; and Secretary). Additional staff may be funded, as necessary, in accordance with section 21a.”.

(2) Subsection (b)(5) is amended to read as follows:

“(5) Establishing, by rule, requirements and standards regarding the amount of uncompensated care provided to residents of the District of Columbia by all health care facilities that receive a certificate of need, including an annual mechanism for monitoring the provision of that uncompensated care by the health care facilities.”.

(c) Section 5 (D.C. Official Code § 44-404) is amended as follows:

Amend
§ 44-404

(1) Subsection (a) is amended to read as follows:

“(a) The SHPDA , with the advice and recommendation of the SHCC, shall develop a proposed HSP, which shall be adopted in accordance with rules issued pursuant to section 22, to guide health policy in the District of Columbia. The HSP shall present data collected pursuant to section 6 to:

“(1) Articulate issues with respect to maintaining and improving the health of District of Columbia residents;

“(2) Demonstrate health care trends over multi-year periods;

“(3) Identify health needs of District of Columbia residents;

“(4) Identify needs of the health care delivery system; and

“(5) Prioritize health care issues.”.

(2) Subsection (b) is amended to read as follows:

“(b) Where applicable, the SHPDA shall use the federal Healthy People 2010 Plan development guidelines, and subsequent federal Healthy People Plan guidelines, to develop the HSP of subsection (a) of this section and to address the health status and health systems goals

of the Department of Health and data needs required to administer the SHPDA's certificate of need responsibilities under sections 10 and 11."

(3) Subsection (e) is amended by adding a new sentence at the end to read as follows:

"Upon the completion and promulgation of any new HSP, or any annual amendment to the HSP, the SHPDA shall submit copies to the Council and the District of Columbia Public Library, and shall publish a notice of its completion and issuance in the District of Columbia Register."

(d) Section 6 (D.C. Official Code § 44-405) is amended as follows:

Amend
§ 44-405

(1) Subsection (a) is amended to read as follows:

"(a) The SHPDA shall develop and maintain the Health Planning Data System ("HPDS"). In order to implement the HPDS, as necessary for the development of the HSP, the SHPDA shall require each health care facility to submit, in writing or other uniform media, data related to the utilization, management, and financing of health services, including data on utilization of health services, cost of services, charges of services, patient demographic and characteristic information, and assurances of its provision of a reasonable volume of uncompensated care through the "annual compliance level" of 3% of its operating costs (total operating expenses of a facility as set forth in an audited financial statement or its equivalent, minus the amount of reimbursement, if any, under Titles XVIII and XIX of the Social Security Act)."

(2) A new subsection (g) is added to read as follows:

"(g) The SHPDA is authorized to establish a fee schedule for certain data, analyses, and reports available through SHPDA."

(e) Section 8(b) (D.C. Official Code § 44-407(b)) is amended as follows:

Amend
§ 44-407

(1) Paragraphs (1), (3), and (4) are amended to read as follows:

"(1) The upgrading, maintenance, or correction of facility deficiencies that may be in violation of federal and District of Columbia fire, building, and safety codes, or that will improve patient safety related to a pending violation of federal or District of Columbia fire, building, or safety codes;

"(3) Nonpatient care projects requiring the obligation of a capital expenditure of less than \$8 million;

"(4) The acquisition of the same or similar medical equipment to replace, upgrade, or expand the capacity of the equipment for which a certificate of need has been granted, if the replaced equipment is removed from service;"

(2) Paragraph (6) is repealed.

(3) Paragraph (8) is amended by striking the word "and" at the end.

(4) Paragraph (9) is amended by striking the phrase "review." and inserting the phrase "review;" in its place.

(5) New paragraphs (10), (11), and (12) are added to read as follows:

“(10) The acquisition of major medical equipment or establishment of new institutional health services determined by the Department to be necessary for a declared public health purpose or deemed necessary by the Department to provide health care services under contract to or grant from a District of Columbia or federal agency. Participation in programs under Titles XVIII and XIX of the Social Security Act does not qualify as a District of Columbia or federal contract for purposes of this exemption;

“(11) District of Columbia public, chartered, and private schools for any health care service offered or developed for students with special needs in compliance with the Individuals with Disabilities Education Act, approved June 4, 1997 (111 Stat. 37; 20 U.S.C. § 1400 *et seq.*), the Rehabilitation Act of 1973, approved August 7, 1998 (112 Stat. 1092; 29 U.S.C. § 701 *et seq.*), or the Early and Periodic Screening, Diagnosis, and Treatment Program under Title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*), or any other federal or District of Columbia legal requirements; and

“(12) The acquisition, prior to October 1, 2003, of any single piece of diagnostic or therapeutic equipment which was acquired by lease, purchase, donation, or other comparable arrangement by or on behalf of a physician, a group of physicians, a private group practice of diagnostic radiology or radiation therapy, or a diagnostic health care facility, or the replacement of such equipment, so long as the equipment to be replaced is removed from service.”.

(f) Section 10 (D.C. Official Code § 44-409) is amended as follows:

Amend
§ 44-409

(1) Subsection (c) is amended as follows:

(A) Insert the phrase “for expedited administrative review,” after the phrase “renewal applications,”.

(B) Strike the last sentence.

(2) Subsection (d)(2) is amended to read as follows:

“(2) The SHPDA shall issue its determination on an application for a certificate of need within 90 days after the date that the review process begins. If the SHPDA cannot issue its determination within that period, the review period may be extended for one additional period of 30 days.”.

(3) Subsection (e) is amended by striking the phrase “which contradicts the recommendation of the SHCC.”.

(4) Subsection (f) is amended by adding a new sentence at the end to read as follows:

“The SHPDA is authorized to charge reasonable fees for the costs of providing to the public documents covered under this subsection.”.

(g) Section 11(a) (D.C. Official Code § 44-410 (a)) is amended by inserting the phrase “major medical equipment,” after the phrase “health service,”

Amend
§ 44-410

(h) Section 21 (D.C. Official Code § 44-420) is amended by inserting 3 new sentences at the end to read as follows:

Amend
§ 44-420

“The annual user fee for private hospitals shall be \$4 per inpatient admission, based on the previous calendar year’s admission data, to be paid to the SHPDA on a quarterly basis, in

lieu of a certificate of need application fee. User fees may also be established for other classes of facilities by regulation. SHPDA may adjust a user fee periodically to reflect the change in the Consumer Price Index issued by the Bureau of Labor Statistics, United States Department of Labor.”.

(i) A new section 21a is added to read as follows:

“Sec. 21a. Establishment of State Health Planning and Development Fund.

“(a) There is established as a nonlapsing, revolving fund in the Department of Health the State Health Planning and Development Fund ("SHPDA Fund"), to be administered by the Mayor as an agency fund as defined in section 373(2)(I) of Title 47 of the District of Columbia Official Code, to which all fees, civil fines, and interest relating to the State Health Planning and Development Agency shall be deposited and credited.

“(b) Revenues deposited into the SHPDA Fund shall not revert to the General Fund at the end of any fiscal year or at any other time but shall be continually available to the Department of Health for the uses and purposes set forth in subsection (c) of this section, subject to authorization by Congress in an appropriations act.

“(c) Subject to the applicable laws relating to the appropriation of District funds, monies received by and deposited in the State Health Planning and Development Fund shall be for the sole use of the State Health Planning and Development Agency and from it shall be paid all salaries and all other expenses necessary in carrying out the duties of the SHPDA, except that annual user fees collected from hospitals pursuant to section 21 shall be used only for salaries and expenses necessary for carrying out the certificate of need responsibilities of the SHPDA. The Mayor shall be responsible for the deposit and expenditure of these monies.

“(d) The Mayor shall submit to the Council, as a part of the annual budget, a requested appropriation for expenditures from the State Health Planning and Development Fund. The Mayor's budget request shall be based on an estimated projection of the expenditures necessary to perform the administrative and regulatory functions of the State Health Planning and Development Agency.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

Amend
§ 44-420.01

ENROLLED ORIGINAL

24, 1973 (87 Stat.813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia